

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ONE WISCONSIN INSTITUTE, INC., *et al.*,

Plaintiffs,

v.

Case No. 15-CV-324-JDP

ANN S. JACOBS, Chair, Wisconsin
Elections Commission, *et al.*,

Defendants.

JUSTIN LUFT, *et al.*,

Plaintiffs,

v.

Case No. 20-cv-768-JDP

TONY EVERS, *et al.*,

Defendants.

PLAINTIFFS' JOINT MOTION FOR A STATUS CONFERENCE

These consolidated challenges to Wisconsin's ID petition process (IDPP) are on remand from the Seventh Circuit. *See Luft v. Evers*, 963 F.3d 665 (7th Cir. 2020). After extensive accelerated discovery and cross-briefing on plaintiffs' motions for preliminary injunction and defendants' motion for summary judgment, this Court on September 28, 2020 denied summary judgment in its entirety; ordered the Wisconsin Elections Commission (WEC) and Wisconsin Department of Transportation's Division of Motor Vehicles (DMV) to make what the Court described as "modest changes" to the IDPP prior to the November 3 election; and "defer[ed]

decisions on more fundamental reforms to the IDPP until after the general election is certified.” ECF No. 425 at 2; *see* ECF No. 426 (preliminary injunction order). The Court advised that, “[a]fter the results of the November 3 election are certified, the court will schedule a status conference to discuss with the parties what additional steps are needed to bring this case to a resolution.” ECF No. 425 at 9.

The Court reiterated in its September 28 decision that the so-called “temporary receipt system” does *not* “satisfy the state’s constitutional duties.” *Id.* at 4. “[Q]ualified electors are entitled to vote as a matter of constitutional right, not merely by the grace of the executive branch of the state government.” *Id.* (quoting *One Wisconsin Inst., Inc. v. Thomsen*, 198 F. Supp. 3d 896, 916 (W.D. Wis. 2016)). The Court continued (*id.* at 4-5):

It is true that defendants have refined the process so that temporary receipts are now automatically renewed every 60 days until a petition is granted or denied. This alleviates some burden on petitioners, but plaintiffs point to examples of petitioners who continue to get “stuck” in the process for months or even years through no fault of their own while they wait for state officials to exercise their discretion. Defendants do not acknowledge that group of petitioners in their opening brief, even though those petitioners were the focus of the court’s 2016 decision.

Plaintiffs lay the blame for the continued problems on the way the IDPP is implemented, most notably that the state fails to adhere to its own standard that a petition should be granted if it is “more likely than not” that the petitioner is eligible to vote. Instead, plaintiffs say, the state continues searching for more corroborating documentation, subjecting petitioners to unreasonable demands for information and leaving them in a state of limbo indefinitely, even after it becomes clear that petitioners are qualified.

The parties dispute the extent and causes of some petitioners’ continued difficulties in obtaining a long-term ID. But the court is persuaded that the evidence cited by plaintiffs is sufficient to show that there are genuine issues of fact on the question whether qualified electors continue to face unreasonable burdens on their right to vote. *See* Fed. R. Civ. P. 56(a).

Plaintiffs respectfully move the Court to schedule a status conference to discuss with the parties the additional steps needed to bring this case to a resolution, including trying the genuine

issues of fact identified in the Court's September 28 decision and deciding whether "more fundamental reforms to the IDPP" are necessary. *Id.* at 2.

Conclusion

For these reasons, plaintiffs move the Court for a status conference. Plaintiffs' counsel are prepared to appear for such a conference at the Court's convenience.

Dated this 4th day of May, 2021.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of May, 2021, I filed the foregoing document using the Court's CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ Charles G. Curtis, Jr.
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